

Section 1230 - Conduct in Parks and Public Places

1230.01 Definitions. Unless the context clearly indicates otherwise, the following words and phrases have the meanings given in this Subsection.

Farmer's Market. The seasonal selling or offering for sale at retail of vegetables, produce, flowers, jam, jelly, pies and similar products, occurring in a predesignated area, where the vendors are individuals who have raised or produced the products being offered for sale or have taken the same on consignment for retail sale.

Park. Property owned by the City which is used or is usable for park, recreation or open space purposes.

Programmed Park. Any enclosed park in which activities are programmed or scheduled by the Park Director, including, but not limited to Edinborough Park.

Publicly Owned Property. Any property owned by the City, County or State.

Sidewalk. An improved thoroughfare located on a public right-of-way or public easement limited to usage by pedestrians and non-motorized vehicles.

Sidewalk Cafe. Tables, chairs, benches and appurtenant equipment located on a sidewalk (i) for the exclusive use by patrons of an abutting food establishment as defined by Section 721 of this Code, or (ii) where the service of food or beverages is offered to persons using such tables, chairs and benches.

Street. A right-of-way which is used or is usable as a public thoroughfare for motorized or non-motorized vehicles or pedestrians. "Street" as used herein includes public highways, streets, roads, and alleys.

1230.02 Conduct in Parks, Streets, Sidewalks, and Publicly Owned Property. No person, in any park, street, sidewalk or publicly owned property, shall:

A. Cut, break, scratch, mark or in any way injure or deface or remove any building, fence, post, pump, lamp, flagpole, construction work, improvement, facility or any other structure or property.

B. Post, paste, fasten, paint or affix any placard, bill, notice, or sign upon any motor vehicle, structure, pole, tree, stone, fence, thing or enclosure unless first authorized in writing by the City.

C. Pick or cut any wild or cultivated flower, or cut, break, or in any way injure or deface any tree, shrub or plant, provided that a property owner may prune trees and shrubs on the street right-of-way adjoining his or her property subject to the permission of the Park Director.

D. Remove any wild flower, tree, shrub, plant, branch or portion thereof, or any soil or other material.

E. Go on foot or otherwise upon grass or turf where a prohibitory sign is posted.

F. Throw or cast any stone or other object, or aim or discharge any air gun, sling shot or other weapon except according to the rules of a game or recreation permitted in writing by the City.

G. Deposit, place or leave any paper, rubbish, waste, cans, bottles, or refuse of any kind except in receptacles provided for the collection of waste.

H. Deposit, place, or leave in publicly owned waste receptacles refuse generated from normal household or business activities.

I. Start or maintain any fire except small fires made by picnic parties in those locations in parks designated for that purpose by the City.

J. Abandon any fire made pursuant to paragraph I. of this Subsection without completely extinguishing the fire and depositing the ashes or coals from such fire, after they have cooled sufficiently, in receptacles provided for waste.

K. Perform acts prohibited by Section 1000 of this Code.

L. Set, lay, or prepare or use any trap, snare, artificial light, net bird line, ferret, hawk or any contrivance or device whatever for the purpose of catching, taking or killing any bird or wild creature. The prohibition in this paragraph shall not apply to trapping by any means or methods done by the City, or done under its direction, or done by any other governmental agency or department with the written permission of the Manager, or done by any person with a valid trapping license issued by the State and with the written permission of the Manager. All trapping shall be done in accordance with State Law.

M. Start or land an airplane, helicopter, balloon or other aircraft without the written permission of the Manager.

N. Consume intoxicating or non-intoxicating malt liquor, wine, or intoxicating liquor, as defined in Section 900 of this Code, except that:

1. 3.2 percent malt liquor, intoxicating malt liquor and wine which is dispensed by the City or by an authorized agent of the City may be consumed subject to other applicable provisions of this Code and subject to the rules and regulations of the Park Director pursuant to Subsection 1230.06 in the following places:

- a. Inside the clubhouse building or on decks, patios and other outdoor dining areas which are adjacent to the clubhouse building at Braemar Golf Course and at Fred Richards Golf Course.

- b. Inside the Edinborough Park building, the Centennial Lakes Park Centrum building, the building at Arneson Acres Park, the Edina Art

Center Building, the Edina Senior Center and on decks, patios and other outdoor dining areas which are adjacent to such buildings.

2. 3.2 percent malt liquor which is dispensed by the City or by an agent of the City pursuant to a temporary on-sale 3.2 percent malt liquor license issued in accordance with Section 900 of this Code may be consumed subject to other applicable provisions of this Code and subject to the rules and regulations of the Park Director pursuant to subsection 1230.06 within the confines of the ball field complex at Van Valkenburg Park.

3. 3.2 percent malt liquor, wine and intoxicating malt liquor which is dispensed by the City or by an agent of the City at an on-sale dispensary authorized pursuant to Subsection 900.02 may be consumed subject to other applicable provisions of this Code and subject to the rules and regulations of the Park Director pursuant to Subsection 1230.06 on the grounds of Braemar Golf Course. 3.2 percent malt liquor which is dispensed by the City or by an agent of the City at an on-sale dispensary authorized pursuant to Subsection 900.02 may be consumed subject to other applicable provisions of this Code and subject to the rules and regulations of the Park Director pursuant to Subsection 1230.06 on the grounds of Fred Richards Golf Course.

4. 3.2 percent malt liquor, intoxicating malt liquor, and wine may be consumed at sidewalk cafes which are licensed in accordance with Section 900 of this Code and which are authorized by a permit issued pursuant to Subsection 1230.07 of this Code.

5. Alcoholic beverages may be consumed on premises holding a Temporary On-Sale 3.2 Percent Malt Liquor License or a Temporary On-Sale Intoxicating Liquor License issued pursuant to Section 900 of this Code and which are authorized by a permit issued pursuant to Subsection 1230.08 of this Code.

O. Destroy, injure, or tamper with any sewer, storm sewer, water main, culvert or any part thereof including manhole covers, tanks or valves.

P. Hitch any animal to a lamp post, hydrant, drinking fountain, tree or other structure or picket an animal to the ground.

Q. Park or occupy a vehicle or occupy a street or sidewalk to sell any farm produce or any other product or property, or for conducting any business or selling of services except as provided in Subsection 1230.07 of this Code.

R. Place any vehicle to display the vehicle for sale or exchange.

S. Work, grease, repair, change oil or maintain in any way a vehicle, except as necessitated by an emergency.

T. Use a skateboard, roller skates, in line roller skates or blades, or similar devices, (i) in a municipal parking facility, (ii) on or across a sidewalk within or adjoining property in the PC-1, PC-2, or PC-3 Districts as defined by Section 850 of this Code, or (iii) upon the

traveled portion of a street. Notwithstanding the foregoing, roller skates or in-line roller skates or blades may be used on the traveled portion of streets if no adjoining sidewalk is present.

U. Feed any wild animal or bird, or deposit a food source for wild animals or birds.

1230.03 Additional Restrictions for Parks and Publicly Owned Properties. In addition to the requirements of Subsection 1230.02, no person shall in any park or publicly owned property:

A. Place or keep any goods, wares, merchandise or other articles without the written permission of the Park Director.

B. Participate in or conduct any band procession, parade or military formation without the written permission of the Park Director.

C. Promote or participate in an entertainment or exhibition without the written permission of the Park Director.

D. Give any public speech or hold or participate in any rally, convention, assembly or meeting without the written permission of the Park Director, which shall be withheld only when necessary to prevent conflict with regular park activities.

E. Sell or offer for sale any article in any public park; provided, that refreshments or other articles may be sold by the City or by persons authorized to do so by the Park Director.

F. Be in or remain in any vehicle, or park or leave unattended any vehicle, between the hours of 12 midnight and 6A.M., except when the vehicle is moving upon a street or when permitted by the Park Director.

G. Drive or park a vehicle on any area not designated for parking or travel.

H. Take or allow any dog or other animal where forbidden by posted signs.

I. Take or allow any horse or other livestock upon any park, publicly owned property or public waters without the written permission of the Park Director.

J. On any public skating rink, no person shall race, play games which interfere with the general public use, use hockey sticks or pucks in areas not marked for hockey play, or loiter in public warming houses.

K. Play or participate in baseball, diamond ball, basketball, football, golf, tennis, archery or any other game or sport except in or upon appropriate areas established by the City for such game or sport.

L. Play upon, use, or enter any publicly owned property without having first paid an admission or entry fee when one is required.

M. Bathe or swim in water adjoining a park except at places and during hours shown by signs placed by the City

N. Be in or remain within the park before or after posted hours of operation without the written permission of the Park Director.

1230.04 Additional Restrictions for Programmed Parks. In addition to the requirements of Subsections 1230.02 and 1230.03, no person in a programmed park shall:

- A. Act in a manner that is disruptive or distracting to programmed or scheduled activities.
- B. Use the park or any equipment in a manner inconsistent with the programmed or scheduled activities.
- C. Physically obstruct or hinder free passage on walkways and paths within the park.
- D. Run or move rapidly along walkways or pathways within the park in a manner that would interfere with sedentary use of the park or would be disruptive or dangerous to pedestrian traffic within the park.
- E. Be or remain within the park before or after posted hours of operation without written permission of the Park Director.
- F. Be or remain within any area of the park closed to public use without written permission of the Park Director.
- G. Walk, run, climb, sit, stand or be physically present in any area designed for or planted with vegetation, or be in any water area or other area not designed for human activity.
- H. Use any electric sound receiving, transmitting or reproducing device in such a manner as to annoy or disturb persons within the park, or disturb or interfere with programmed or scheduled activities.
- I. Use or consume alcoholic beverages contrary to this Code or contrary to any rules and regulations of the Park Director or contrary to any license or lease by which the user or consumer is within the park.
- J. Use or consume alcoholic beverages not dispensed by a person or group duly licensed by the City to use the park.
- K. Use tobacco in any form.
- L. Operate skateboards, roller skates, in line roller skates or blades, bicycles, scooters, or similar vehicles or devices, unless part of a programmed or scheduled activity.
- M. Act disorderly.
- N. Trespass.

1230.05 Additional Requirements for Waterbodies. In addition to the requirements of Subsection 1230.02, no person shall on any lake, pond or stream within the City:

- A. Start or land an airplane, helicopter, balloon or other aircraft without the written permission of the Manager.
- B. Use any mechanically propelled boat or other watercraft unless being used for emergency rescue or the maintenance of the lake, pond, or stream.
- C. Use any watercraft unless in full compliance with State Law and the rules and regulations of the State Commissioner of the Department of Natural Resources including the use of personal floatation devices.
- D. Erect or maintain a shelter on the ice unless the shelter is portable and is removed each day.
- E. Start or maintain any fire on the ice provided that a manufactured heater using liquid or gaseous fuel may be used.

1230.06 Additional Rules and Regulations. The Park Director may adopt additional rules and regulations not contrary to the provisions of this Code governing the use and enjoyment of parks, programmed parks, playgrounds, lakes, ponds, streams and other publicly owned properties which shall be prominently posted or publicly announced in the places where they are intended to apply. Any person who violates a rule or regulation so posted may be excluded from the use of the park, programmed park, lake, pond, stream or other publicly owned property and may in addition be prosecuted as for a misdemeanor.

1230.07 Special Permits for Pushcarts, Sidewalk Cafes and Farmers Market. Notwithstanding the requirements of this Section 1230, certain pushcarts and sidewalk cafes are permitted on sidewalks and farmers markets are permitted on City owned property subject to the requirements of this Subsection.

Subd. 1 **Pushcarts.** Pushcarts, as defined by Section 721 of this Code, may be located on sidewalks within the area included in the plan prepared by the HRA entitled, "50th and France Commercial Area Plan" dated December 3, 1974, subject to a permit issued pursuant to this Subdivision.

A. In addition to the requirements of Section 160 of this Code, no permit shall be issued for a pushcart unless the following requirements are met:

1. The pushcart must be licensed in accordance with Section 721 of this Code.
2. The applicant for a permit must possess a valid food establishment license or take-out food license, pursuant to Section 721 of this Code, for a food establishment located in the 50th and France commercial area.
3. The pushcart shall not exceed eight feet in length, four feet in width, and eight feet in height.
4. The pushcart shall be equipped with casters or wheels to permit ease of movement.

5. The pushcart shall be equipped with facilities for the disposal of trash generated by the pushcart.

B. In addition to the requirements of Section 721 of this Code, the following requirements shall apply to the operation of pushcarts:

1. Pushcarts shall be parked on public sidewalks and walkways only in those locations specified in the permit.
2. Pushcarts shall be stored indoors following the close of business each day.
3. Only food or beverages for immediate consumption may be offered from the pushcart.
4. Cleaning, servicing, and maintenance of the pushcart shall be undertaken only in an area approved by the Sanitarian.

C. Permits issued pursuant to this paragraph shall expire on March 31 of each calendar year.

D. The number of permits which may be in force under this Subd. 1 at any one time shall not exceed six.

Subd. 2 **Sidewalk Cafes.** Sidewalk cafes may be located on sidewalks subject to a permit issued by the City Manager pursuant to this Subdivision. Applications for a sidewalk cafe permit shall be made on forms supplied by the Clerk and shall include a plan drawn to scale which illustrates the exact location of the proposed sidewalk cafe together with distances and dimensions of the adjoining buildings, the sidewalk, the distance to and location of the traveled portion of the street and distances to all obstructions in the vicinity. The application shall be accompanied by the fee set forth in Section 185 of this Code. If the application is denied, the application fee less \$100 shall be returned to the applicant.

A. In addition to the requirements of Section 160 of this Code, no permit shall be issued or renewed for a sidewalk cafe unless the following requirements are met:

1. The applicant must possess a valid food establishment license pursuant to Section 721 of this Code.
2. A distance of at least 200 feet shall be maintained between the nearest point of the sidewalk cafe to the nearest point of property used for residential purposes.
3. The applicant must furnish to the Clerk, evidence that public liability insurance has been procured for any death or personal injury arising from the ownership, maintenance, or operation of the sidewalk cafe in amounts not less than \$100,000 for injury to or death of one person, of \$300,000 for any one incident, and not less than \$50,000 for damage to property arising from any one incident. The applicant shall maintain such insurance in effect at all times during the term of the permit. The City shall be named as an additional named insured in the policy providing such insurance.

4. The applicant shall indemnify and hold the City and the City's officials and employees harmless from any loss, cost, damage and expenses arising out of the use, design, operation, or maintenance of the sidewalk cafe.

5. The area occupied by the sidewalk cafe shall abut and shall be operated as part of the food establishment operated by the applicant. No part of the sidewalk cafe shall adjoin any premises other than the applicant's food establishment.

6. The City Manager shall find that the sidewalk cafe will not unduly restrict the safe usage of the sidewalk by the public after taking into consideration the location of obstructions, vehicular traffic and other impediments to the passage of pedestrians. The City Manager shall renew a permit only upon finding that the operation of the sidewalk cafe complied with all provisions of this Subdivision and did not constitute a nuisance as defined by Section 1035 of this Code.

B. In addition to the requirements of Section 721 of this Code, the following requirements shall apply to the operation of sidewalk cafes.

1. Only food or beverages for immediate consumption may be offered for sale.

2. Intoxicating liquors, beer or wine may be consumed only if the sidewalk cafe is licensed pursuant to Section 900 of this Code.

3. No expansion of the area occupied by the sidewalk cafe from that shown on the permit application shall be made.

4. No tables, chairs, furnishings, planters, railings or other obstructions shall be placed or remain on the sidewalk between November 1 and April 1 except on a day to day basis when the sidewalk cafe is open for business.

5. The applicant shall maintain the sidewalk cafe in a clean and sanitary condition as required by Section 721 of this Code.

6. The applicant shall promptly replace or repair any damage to the sidewalk or other public property caused by the applicant's use of the sidewalk as a sidewalk cafe.

C. Permits issued pursuant to this Subdivision shall expire on March 31 of each calendar year.

Subd. 3 Farmers Markets. Farmers markets may be located in Centennial Lakes Park subject to a permit issued by the Park Director pursuant to this subdivision. Applications for a farmers market permit shall be made on forms supplied by the City Clerk and shall include a plan drawn to scale which illustrates the exact location of the proposed farmers market. The application shall be accompanied by the fee set forth in Section 185 of this Code. If the application is denied, the application fee less \$100 shall be returned to the applicant.

1. The applicant must furnish to the Clerk, evidence that public liability insurance has been procured for any death or personal injury arising from the ownership, maintenance, or operation of the farmers market in amounts not less than

\$100,000 for injury to or death of one person, of \$300,000 for any one incident, and not less than \$50,000 for damage to property arising from any one incident. The applicant shall maintain such insurance in effect at all times during the term of the permit. The City shall be named as an additional named insured in the policy providing such insurance.

2. The applicant shall indemnify and hold the City and the City's officials and employees harmless from any loss, cost, damage and expenses arising out of the use, design, operation, or maintenance of the farmers market.

1230.08 Special Permits for Temporary Liquor Licenses. The City Council may issue a special permit to the holder of a Temporary On-Sale 3.2 Percent Malt Liquor License or a Temporary On-Sale Intoxicating Liquor License issued pursuant to Section 900 of this Code for the purpose of occupying a park, street, sidewalk or publicly owned property with a licensed premises. Applications for a special permit shall be made on forms supplied by the Clerk and shall include a plan drawn to scale which illustrates the exact location of the licensed premises and all proposed signs, including signs attached to vehicles, that will be used to identify the licensed premises or to promote the sale of alcoholic beverages. The application shall be accompanied by the fee set forth in Section 185 of this Code. In addition to the requirements of Section 160 of this Code, no permit shall be issued pursuant to this Subsection unless the following requirements are met:

A. The City Council shall find that the issuance of the permit i.) will not be detrimental to or endanger the public health, safety, morals and general welfare, ii.) will not cause undue traffic hazards, congestion or parking shortages and iii.) will not be injurious to the use and enjoyment, or decrease the value of other property in the vicinity, and will not be a nuisance.

B. No signs or symbols of any kind shall be used to identify the licensed premises or product dispensed therein other than those specifically approved by the City Council.

C. The permit holder shall indemnify and hold the City harmless from any loss, cost, damage and expense arising out of the holder's use, design, operation or maintenance of the property. The indemnity shall be on forms provided by the Clerk.

D. The permit holder shall furnish to the Clerk evidence that public liability insurance has been procured for any death or personal injury arising from the ownership, use, operation or maintenance of the property in the amounts of not less than \$100,000 for injury to or death of one person, of \$300,000 for any one incident, and not less than \$50,000 for damage to property arising from any one incident. The permit holder shall maintain such insurance in effect at all times during the term of the permit. The City shall be named as an additional named insured in the policy providing such insurance.

E. The permit holder shall furnish a surety bond, letter of credit or cash deposit in an amount determined by the City Council but not less than \$5,000 to be used by the City for the purpose of replacing or repairing any damage to public property caused by the permit holder's use. A surety bond shall be from a corporate surety authorized to do business in the State. The surety bond, letter of credit or cash deposit shall be released by the City upon completion of the repair or replacement of any damage to public property.

F. The City council may impose other requirements and conditions necessary to promote public safety.

1230.09 Exception. The provisions of this Section 1230 shall not apply to employees and agents of the City who are performing job related duties under the direction of the Manager, Engineer, or Park Director.

1230.10 Off-Leash Dog Park. The City Council has established an off-leash dog park at the Van Valkenburg Park. The Park Director may adopt additional rules and regulations for the use of the Park not inconsistent with the City Code. Park users must pay a fee as set forth in Section 185.01 Schedule A of the Code.

1230.11 Tobacco Use Prohibited in Public Parks. In addition to the requirements of Subsections 1230.02 and 1230.03, the use of tobacco in any form is prohibited in public parks, indoor or outdoor.

History: Ord 1222 codified 1970; amended by Ord 1222-A1 11-29-78; 1222-A2 11-28-79; 1222-A3 6-24-87; Ord 1993-5 4-28-93; Ord 1994-6 7-27-94; Ord 1995-6 8-17-95; Ord 1997-14 12-15-97; Ord 1999-7 3-15-99; Ord 2001-7 10-3-01; Ord 2002-10 1-21-03; Ord 2004-8 5-27-04; Ord 2004-10, 8-12-04; Ord 2010-03, 02-16-10; Ord 2011-11, 12-06-2011; 2012-04, 02/21/2012

Cross Reference: Sections 160, 721, 900, 1000